

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

MISTER SOFTEE, INC., AND MISTER SOFTEE,
QUEENS, INC.,

Plaintiffs,

v.

JOAN DIAZ,

Defendant.

MEMORANDUM AND ORDER

19-CV-4857 (LDH) (PK)

LASHANN DEARCY HALL, United States District Judge:

On July 2, 2020, United States Magistrate Judge Peggy Kuo issued a Report and Recommendation recommending that this Court grant Plaintiffs' motion for default judgment as to Plaintiff Mister Softee, Inc., grant Mister Softee, Inc.'s request for a permanent injunction, and award Mister Softee, Inc. \$4,054.81 in attorneys' fees and costs. The parties were given until July 20, 2020, to file objections to the Report and Recommendation. No objections have been filed. Where no objections to a Report and Recommendation have been filed, "the district court need only satisfy itself that there is no clear error on the face of the record." *Estate of Ellington ex rel. Ellington v. Harbrew Imports Ltd.*, 812 F. Supp. 2d 186, 189 (E.D.N.Y. 2011) (quoting *Urena v. New York*, 160 F. Supp. 2d 606, 609–10 (S.D.N.Y. 2001)). The Court has reviewed the record and the Report and Recommendation for clear error and, finding none, hereby adopts Magistrate Judge Kuo's Report and Recommendation in its entirety as the opinion of the Court. Accordingly, Plaintiffs' motion for default judgment is GRANTED as to Mister Softee, Inc. Defendant Joan Diaz is permanently enjoined from using Mister Softee, Inc.'s proprietary trademarks, trade names, and trade dress or any colorable imitation thereof in any manner. 15 U.S.C. § 1125(c)(1). Within fourteen (14) days of service of this order, Defendant shall deliver and/or destroy all labels, signs, prints, packages, wrappers, receptacles, and advertisements in her

possession bearing the words and/or symbols that are the subject of the trademark or trade name violation or any reproduction, counterfeit, copy, or colorable imitation thereof, and all plates, molds, matrices, and other means of making the same. *Id.* § 1118. Plaintiffs' motion for attorneys' fees is GRANTED, in part. Mister Softee Inc. is awarded \$4,054.81 in attorneys' fees and costs against Defendant.

SO ORDERED:

Dated: Brooklyn, New York
September 22, 2020

/s/ LDH
LASHANN DEARCY HALL
United States District Judge